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Appl. No. 10/665,663
Docket No. 9075ML
Amdt. dated October 20, 2006
Reply to Office Action mailed on August 23, 2006
Customer No. 27752

OCT 20 2006

REMARKS

Claims 1-5, and 7-19 remain in the instant Application and are presented for the Examiner's reconsideration in light of the above Amendments and the following comments.

Claims 1 and 9 have been amended to change the description of the first secondary functional element. Support for the amendment is in the original claims.

Rejection Under 35 USC §112 P2

The Office Action rejects claims 1-5 and 7-19 under 35 USC §112 P2 as being indefinite for failing to particularly point out and distinctly claim the invention. The Office points to a number of "informalities" in the claim language.

Applicant has amended claims 1 and 9 in response to the informalities noted in the informalities noted in the Office Action regarding the term "secondary function" in claim 1 and "at least one" in claim 9.

The Office Action provides that adhesive may be a secondary functional element and that this renders the claims indefinite. Applicant respectfully submits that a claim which provides that a multifunctional food wrap comprises an adhesive which comprises a first secondary functional element which may be an adhesive is still definite in that the limits of the invention are defined by the claim. The Office Action is not clear as to how the current language of the claims is ambiguous or indefinite.

Chemical means and physical means are described in the Specification from page 5, line 4 to page 14, line 14.

The Office Action provides that Applicant has improperly cited a US patent, incorporated by reference in the specification as support for the claimed phrase "first active side". The Office Action provides:

" The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material

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previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f).

4. The attempt to incorporate subject matter into this application by reference to US patent 6,194,062 is ineffective because mere citation of the patent, without more, in the specification is inadequate to incorporate by reference into the claims the otherwise non disclosed subject matter describing the newly presented and nowhere disclosed term "first active side", applicants comments to the contrary notwithstanding.

Applicant respectfully directs the Office to 37 CFR 1.57(c) which reads in part: "Essential material" may be incorporated by reference, but only by way of an incorporation by reference to a U.S. patent or U.S. patent application publication, which patent or patent application publication does not itself incorporate such essential material by reference.

Applicant has properly incorporated a US patent into the specification which in turn does not incorporate the essential material by reference. Applicant request that the Office provide a citation to the authority under which this rejection is made as the only authority cited 37 CFR §1.57(f) relates to an amendment but not to the contention at the root of the rejection. Applicant submits that this rejection is not well founded and should be withdrawn.

Rejection Under 35 USC §112, First Paragraph

The Office Action states the phrase "disposed upon, and integral with" appears to be new matter, as no support has ever been pointed out and the Examiner has been unable to find where any suitable express or inherent support exists. Additionally, the term "active side" has, as noted above, apparently not been defined in the specification and as such also appears to be nonenabling to one of ordinary skill.

Applicant respectfully directs the attention of the Office to the first and second paragraphs of page 3 and also to page 5, line 4-16 of the specification. These paragraphs provide that the protrusions of the material may have a secondary functional element deposited thereon, and that the protrusions may contain the secondary functional element.

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Applicant submits that this portion of the specification supports the language of the amended claims.

Applicant also directs the attention of the Office to col. 5, line 52 – col. 6, line 34 of US patent 6,194,062, incorporated by reference into the instant application which describes the active side of a web material. Applicant believes that these portions of the specification and incorporated reference satisfy the requirements of 35 USC §112 P1 with regard to the language of the rejected claims. Applicant respectfully requests that the rejection under 35 USC §112 P1, be reconsidered and withdrawn.

Applicant submits that in view of the current amendments to the claims and the above remarks, that the language of the claims satisfies the requirements of 35 USC §112 P2, and that these rejections should be reconsidered and withdrawn.

Rejection Under 35 U.S.C. §103

Claims 1- 5 and 7 - 19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hamilton, et al., U.S. Patent No. 5,968,633. Applicant submits that the Office Action has failed to establish a *prima facie* case of obviousness as required. Specifically, the cited reference does not teach or suggest all of the elements set in the claims, neither The Hamilton reference does not teach or suggest any of the claimed combinations. The reference does not teach the disposition of the adhesive together with a first secondary functional element in combination with a second secondary functional element disposed in the web material. The reference does not teach an adhesive disposed with a secondary functional element disposed within the web material or the combination of an adhesive disposed between protrusions together with a secondary functional element disposed integral with the protrusions.. That portion of the reference cited by the Office describes portions of these combinations but does not teach or suggest all of the elements of any of the claimed combinations in a single embodiment.

The reference fails to teach or suggest each of the limitations of the invention as claimed. The reference does not support a *prima facie* case of obviousness under 35 USC §103(a). Applicants respectfully request reconsideration and withdrawal of this rejection.

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Conclusion

Based on the foregoing, it is respectfully submitted that each of Applicants' remaining claims is in condition for allowance and favorable reconsideration is requested.

This response is timely filed pursuant to the provisions of 37 C.F.R. §1.8 and M.P.E.P. §512, and no fee is believed due. However, if any additional charges are due, the Examiner is hereby authorized to deduct such charge from Deposit Account No. 16-2480 in the name of The Procter & Gamble Company

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 

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Date: October 20, 2006

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